

1 DAYLE ELIESON
2 United States Attorney
District of Nevada

3 MARK E. WOOLF
4 LINDSY M. ROBERTS
Assistant United States Attorneys
5 501 Las Vegas Boulevard South, Suite 1100
Las Vegas, Nevada 89101
Telephone: 702-388-6336
6 Email: mark.woolf@usdoj.gov
lindsay.roberts@usdoj.gov
7 *Attorneys for the United States.*

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10 **UNITED STATES DISTRICT COURT**

11 **DISTRICT OF NEVADA**

12 MID-CENTURY INSURANCE COMPANY,)
as subrogee of Sherman Kappe,) Case No.
13)
Plaintiffs,)
14) **NOTICE OF REMOVAL**
v.)
15)
JAMES ANTHONY SMITH; MISTER)
16 JONATHAN JACKSON III; ANDERSON)
MOORE; BUDGET RENT A CAR)
17 SYSTEM, INC.; and DOES I through X,)
inclusive,)
18)
Defendants.)
19 _____)

20 Pursuant to 28 U.S.C. §§ 2679(d)(2), 1346(b)(1), 1442(a)(1) and 1446(a), the United
21 States of America, on behalf of itself and Federal Defendant Mister Jonathan Jackson, III
22 (“Jackson”), a federal employee acting in the course and scope of federal employment or office
23 at the time of the subject incident, removes this case to the United States District Court for the
24 District of Nevada. The grounds for removal are as follows:

25 On July 13, 2017, Plaintiff commenced this action in the Justice Court, Las Vegas
26 Township, Court, Clark County, Nevada, as Case No. 17C014770. Plaintiff alleges that on or
27 about November 30, 2015, Jackson negligently operated his vehicle which resulted in damages
28 to Plaintiff. A copy of Plaintiff’s complaint is attached hereto as Exhibit A.

1 This action is being removed pursuant to the Federal Tort Claims Act, which provides in
 2 pertinent part:

3 Upon Certification by the Attorney General that the defendant employee was acting
 4 within the scope of his office or employment at the time of the incident out of which
 5 the claim arose, any civil action or proceeding commenced upon such claim in a State
 6 court shall be removed without bond at any time before trial by the Attorney General to
 7 the district court of the United States for the district and division embracing the place in
 8 which the action or proceeding is pending. Such action or proceeding shall be deemed
 9 to be an action or proceeding brought against the United States . . . , and the United
 10 States shall be substituted as the party defendant.

11 28 U.S.C. § 2679(d)(2). The Attorney General has delegated to United States Attorneys the
 12 authority to certify that a federal employee was acting in the course and scope of his
 13 employment at the time of the incident at issue. 28 C.F.R. § 15.4. Jackson has been previously
 14 certified as acting within the course and scope of federal employment or office at the time of the
 15 incident that is the subject of Plaintiff's Complaint. The prior certification occurred in the
 16 related case asserting identical claims arising out of identical facts and circumstances that was
 17 previously removed and voluntarily dismissed after the United States was substituted as the
 18 proper defendant for Jackson under the Federal Tort Claims Act in *Mid Century Insurance*
 19 *Company v. James Anthony Smith, et al.*, 2:17-cv-00077-JAD-CWH. The prior Certification of
 20 Scope of Employment is attached hereto as Exhibit B, and is also attached as an exhibit to the
 21 concurrently filed Notice of Substitution. Additionally, federal district courts have exclusive
 22 jurisdiction for tort claims arising from the negligent or wrongful acts or omissions of federal
 23 employees acting within the scope of their employment or office. See 28 U.S.C. § 1333(b)(1).

24 Further, 28 U.S.C. § 1442(a)(1) provides in pertinent part:

25 “A civil action . . . that is commenced in a State court and that is against or directed to
 26 any of the following may be removed by them to the district court of the United States
 27 for the district and division embracing the place wherein it is pending: (1) The United
 28 States or any agency thereof or any officer (or any person acting under that officer) of
 relating to any act under color of such office . . . ”

29 28 U.S.C. § 1442(a)(1). Section 1442(a)(1) provides for a “broad” grant of removal jurisdiction
 30 and is not given a “narrow, grudging interpretation.” *Nationwide Investors v. Miller*, 793 F.2d
 31 1044, 1046 (9th Cir. 1986) (citing *Willingham v. Morgan*, 395 U.S. 402, 407 (1969)). Under

1 Section 1442(a)(1), federal court jurisdiction need not even be apparent from the face of the
2 complaint itself. *See Jefferson Cnty., Alabama v. Acker*, 527 U.S. 423 (1999); *Mesa v.*
3 *California*, 489 U.S. 121 (1989).

4 The United States gives notice that the above-referenced action, commenced in the
5 Justice Court, Las Vegas Township, Clark County, Nevada, as Case No. 17C014770, is now
6 removed to the United States District Court for the District of Nevada. The United States does
7 not, by filing this notice, waive service of process or any other defenses available under Fed. R.
8 Civ. P. 12(b) or other applicable law. A copy of this notice will be served promptly on Plaintiff
9 and all other appearing parties.

10 Respectfully submitted this 16th day of January 2018.

11 DAYLE ELIESON
12 United States Attorney

13 /s/ Mark E. Woolf
14 MARK E. WOOLF
15 Assistant United States Attorney

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PROOF OF SERVICE

I, Mark E. Woolf, hereby certify that the **NOTICE OF REMOVAL** was served this date on all parties via the Court's Electronic Case Filing system, and as indicated below:

Electronic Mail & U.S. Mail:

Lisa A. Taylor, Esq.
5664 N. Rainbow Blvd.
Las Vegas Nevada 89130
lisa@ltaylorlaw.com

Attorney for Plaintiff

Deborah L. Elsasser, Esq.
The Law Office of Christine G. Moore
150 N. Stephanie Street, #150
Henderson, Nevada 89074
Delsass1@progressive.com

*Attorney for Defendants and Cross-Claimants
Anderson Moore and James A. Smith*

George M Ranalli, Esq.
Ranalli Zaniel Fowler & Moran, LLC
2400 W. Horizon Ridge parkway
Henderson, Nevada 89052

*Attorneys for Defendant Malco Enterprises of Nevada, Inc.
d/b/a Budget Rent A Car and Sales*

Dated this 16th day of January 2018.

/s/ Mark E. Woolf
MARK E. WOOLF
Assistant United States Attorney